

ORDER NO. 6070

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Competitive Product Prices
Parcel Select Contract 37 (MC2020-84)
Negotiated Service Agreements

Docket No. CP2020-83

ORDER APPROVING AMENDMENT THREE TO
PARCEL SELECT NEGOTIATED SERVICE AGREEMENT

(Issued December 20, 2021)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Parcel Select Contract 37, Filed Under Seal, December 9, 2021 (Notice). The amendment is an attachment to the Notice (Amendment).

II. BACKGROUND

In Order No. 5401, the Commission approved the Parcel Select Contract 37 negotiated service agreement (Existing Agreement).² On December 9, 2021, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On December 10, 2021, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective three business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3035.105. *Id.*

III. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* He also notes that the Commission will have an opportunity to annually review the financial results of the contract for compliance with 39 U.S.C. § 3633(a). *Id.*

² See Docket Nos. MC2020-84 and CP2020-83, Order Adding Parcel Select Contract 37 to the Competitive Product List, January 9, 2020 (Order No. 5401). The contract was later amended. See Order Approving Amendment One to Parcel Select Negotiated Service Agreement, July 16, 2020 (Order No. 5589); Order Approving Amendment Two to Parcel Select Negotiated Service Agreement, June 11, 2021 (Order No. 5913).

³ See Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 10, 2021.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Parcel Select Contract 37, December 16, 2021 (PR Comments).

IV. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3035.105 and 3035.107. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment excludes packages originating from and/or addressed to certain ZIP Codes, adds additional tier thresholds for eligible discounts, revises pricing tables, and revises the annual review provisions. Notice, Attachment A at 1-7. In addition, the Amendment revises the process for appeals. *Id.* at 8.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3035.107(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.F. of the Existing Agreement, as amended, should allow its revenues to cover costs for the duration of its term. Notice, Attachment 1 at 7. The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective three business days after the date that the Commission completes its review. Notice at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Parcel Select Contract 37 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Erica A. Barker
Secretary